

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
INSURED ADVOCACY GROUP, LLC,
:

Plaintiff,
:

-v-
:

24-CV-1130 (JMF)
:

TREE GUARDIAN USA, LLC et al.,
:

Defendants.
:
-----X

ORDER OF DISMISSAL

JESSE M. FURMAN, United States District Judge:


“[S]ubject matter jurisdiction is an unwaivable *sine qua non* for the exercise of federal judicial power.” *Curley v. Brignoli, Curley & Roberts Assoc.*, 915 F.2d 81, 83 (2d Cir. 1990). Consistent with that proposition, Rule 12(h)(3) of the Federal Rules of Civil Procedure provides that, “[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”

In the present case, Plaintiff’s first Complaint failed to adequately allege the parties’ citizenship and, thus, did not properly invoke the Court’s diversity jurisdiction. *See, e.g., Leveraged Leasing Admin. Corp. v. PacifiCorp Capital, Inc.*, 87 F.3d 44, 47 (2d Cir. 1996). The Court issued an Order directing Plaintiff to amend its Complaint to remedy this defect. ECF No. 8. Plaintiff did file an Amended Complaint, ECF No. 9, but it too failed to adequately allege citizenship. The Court gave Plaintiff “one more opportunity to amend its Complaint to adequately allege citizenship no later than March 1, 2024,” and warned that, if Plaintiff did not file an amended Complaint by that date or again failed to adequately allege citizenship, “the Court will dismiss this action for lack of subject matter jurisdiction without further notice.” ECF No. 10. Plaintiff did not file any amended Complaint by March 1, 2024.

Accordingly, the complaint is hereby DISMISSED without prejudice for lack of subject-matter jurisdiction. Any pending motions are moot and any conferences are canceled. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: March 4, 2024
New York, New York



JESSE M. FURMAN
United States District Judge